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ROWLAND MARCUS ANDRADE

IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ROWLAND MARCUS ANDRADE,

Defendant.

Case No.: 3:20-CR-00249-RS-LBx

**DECLARATION OF KERRIE C. DENT IN
SUPPORT OF DEFENDANT'S MOTION
TO REQUIRE THE GOVERNMENT TO
PRODUCE THE MASTER COPY AND
OTHER IMAGES OF LEVIN'S DEVICES
OR SUBMIT THE DEVICES TO THE
COURT**

Date: July 18, 2024
Time: 10:30 a.m.
Judge: Hon. Laurel Beeler

DECLARATION OF KERRIE C. DENT

Kerrie C. Dent, counsel for Defendant Marcus Andrade, states as follows:

1. I am one of the lawyers representing Defendant Marcus Andrade in the above-captioned matter. I file this declaration in support of Mr. Andrade's Motion to Compel Production of the Master Copy of Levin's Phone.

2. I have personal knowledge of the discovery disputes and related correspondence between the government and defense counsel and, if called as a witness in this matter, could competently testify to the matters stated in this Declaration.

3. I exchanged emails with the government in April 2024 regarding the fact that defense counsel still had not received an address to serve Mr. Levin or his lawyer with a subpoena for Levin's devices, which the Court had ruled are material to Mr. Andrade's defense. On April 12 and April 28, 2024, I reminded the government that it still had not provided contact information for a lawyer who would accept service for a subpoena for Levin's devices and suggested that, if the government was not going to return the devices, then it should submit the devices to the Court. The government responded on April 16 and April 30, 2024, declined a meet-and-confer, and stated in part that the "request to send the devices to the Court is not supported by law, and puts the Court in the inappropriate position of holding third-party evidence" and that "[t]o the best of [its] knowledge, Mr. Levin is currently located outside of the United States."

4. Special Agent Brendon Zartman returned some of Mr. Andrade's seized devices to King & Spalding's San Francisco office in February 2024. At around that time, the government informed us that it was unable to get images of a few of Mr. Andrade's mobile devices. We were able to get images of at least two of the devices that the government could not image. I am not involved in the technological side of these matters, so I do not know why we were able to image the devices even though the government could not.

5. In communications with the government, it pointed to the Fourth Amendment as a reason that it could not produce the Levin devices that the Court has ruled are material to Mr. Andrade's defense. For example, AUSA Highsmith emailed me on June 6, 2023 that: "We have produced the extractions from the Levin devices in our possession, *i.e.*, the responsive, non-

privileged material we are permitted by the Fourth Amendment to retain.”

6. The government reported that it asked Levin's lawyer more than 18 months ago where he wanted Levin's devices sent, and the lawyer never responded. In addition, the government presumably informed Levin (and/or his lawyer) in April 2023 that this Court had ruled his devices were material to Mr. Andrade's defense. When we hired an investigator to serve Mr. Levin, he reported back that neighbors thought Mr. Levin had moved. If, as the government suggests, Levin has left the country, then he did so knowing that the government had been ordered to produce his devices, without filing any objection to the ruling. In fact, we are aware of no evidence in the record that Levin has ever requested return of his devices.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on June 28, 2024, in Washington, D.C.

/s/ Kerrie C. Dent
Kerrie C. Dent